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Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Bruce L. Daugherty, et al.

Serial No.: 08/847,296

Case 19634Y

Art Unit:

1646

Filed: April 24, 1997

Examiner:

Prema Mertz

For: EOSINOPHIL EOTAXIN RECEPTOR

The Honorable Assistant Commissioner for Patents  
Washington, D.C. 20231

DECLARATION OF BIOLOGICAL CULTURE DEPOSIT

DOCKETED  
NOV 04 1999  
BARBARA REILLY

Sir:

I, J. Eric Thies, Esq., hereby declare:

1. I am an attorney for the Applicant for a United States Patent for the subject matter described and claimed in United States Patent Application Serial Number 08/847,296, filed April 24, 1997, entitled "EOSINOPHIL EOTAXIN RECEPTOR".
2. That the following culture referred to in the specification of this application has been deposited:

AML 14.3D10/CCCKR3, Clone 16  
Cell Line

CRL-12079  
ATCC Designation

April 5, 1996  
Date of Deposit

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING  
DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST  
CLASS MAIL IN AN ENVELOPE ADDRESSED TO:  
ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231  
ON THE DATE APPEARING BELOW.

MERCK & CO., INC.

BY:

DATE: NOVEMBER 4, 1999

3. That the name and address of the depository is:

American Type Culture Collection (ATCC)  
12301 Parklawn Drive  
Rockville, MD 20851

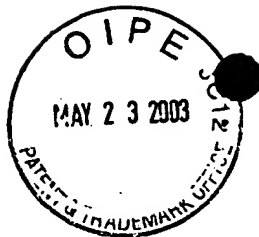
4. That a statement that the culture deposited with the ATCC was viable on the date of deposit is attached. Such statement is executed by the ATCC.

5. That with respect to the permanence of the culture deposit:

- a. the ATCC has represented itself as an official depository for the above deposited culture in accordance with the Budapest Treaty.
- b. the ATCC has represented that it affords permanence of the deposit for at least 30 years or at least 5 years after the most recent request, whichever is longest.

I affirm that should the culture mutate, become nonviable or be inadvertently destroyed, Applicant will replace such culture for at least 30 years from the date of the original deposit, or at least 5 years from the date of the most recent request for release of a sample or for the life of any patent issued on the above-mentioned application, whichever period is longer.

6. That with respect to availability of the biological material, I affirm (i) that the deposit has been made under conditions of assurance of ready accessibility thereto by the public of the United States of America if a United States Patent is granted whereby all restrictions on the availability of the deposit to said public will be irrevocably removed upon the granting of the patent, and (ii) access to the culture will be available during pendency of U.S. Application Serial Number 08/847,296 to one determined by the Commissioner to be entitled thereto. (37 CFR §§1.14 & 1.808; 35 USC §122; MPEP §2410.01).



Serial No. 08/847,296  
Case No.: 19634Y  
Page 3

7. That the deposit was made by inventor Bruce L. Daugherty on behalf of his employer: Merck and Company, P.O. Box 2000, Rahway, NJ 07065 as indicated on the attached copy of the statement indicating that the culture was deposited with the ATCC.

8. That the biological material deposited by Applicant as CRL-12079 is a biological material from the same CC CKR3 transfected AML14.3D10 cell line described in the priority specification, U.S. Provisional Application Serial Number 60/016,158, filed April 26, 1996, U.S. Provisional Application Serial Number 60/017,113, filed April 26, 1996, and U.S. Application Serial Number 08/847,296, filed April 24, 1997. (37 C.F.R. §1.804(b))

10. That I hereby further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

By J. Eric Thies

J. Eric Thies  
Reg. No. 35,382  
Attorney for Applicant

MERCK & CO., INC.  
P.O. Box 2000  
Rahway, New Jersey 07065-0907  
(732) 594-3904

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Date: November 4, 1999



# American Type Culture Collection

12301 Parklawn Drive • Rockville, MD 20852 USA • Telephone: (301)231-5520 Telex: 898-055 ATCCNORTH • FAX: 301-770-2587

## BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

### INTERNATIONAL FORM

#### RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3 AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

Merck and Company  
Attn: Bruce L. Daugherty  
RY80W107, P.O. Box 2000  
Rahway, NJ 07065

Deposited on Behalf of: Merck and Company

Identification Reference by Depositor:

ATCC Designation

Cell line AML14.3D10/CCCKR3, Clone 16

CRL-12079

The deposit was accompanied by: ☐ a scientific description ☐ a proposed taxonomic description indicated above.

The deposit was received April 5, 1996 by this International Depository Authority and has been accepted.

#### AT YOUR REQUEST:

☒ We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested April 10, 1996. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Rockville, Md. 20852 USA

Signature of person having authority to represent ATCC:

Barbara M. Hailey  
Barbara M. Hailey, Administrator, Patent Depository

Date: April 12, 1996

cc: Eric Thies  
✓ Dr. Jack Tribble